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NORTHERN DISTRICT OF CALIFORNIA

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UNITED STATES DISTRICT COURT

FOR THE NORTHERN DISTRICT OF CALIFORNIA

SAN JOSE, CALIFORNIA

JAWAD KADHIM AL GIZAWI,

Petitioner,

vs.

MICHAEL CHERTOFF, Secretary,
Department of Homeland Security;

ROSEMARY MELVILLE, Director, San
Francisco District, Citizenship &
Immigration Services;

EMILIO T. GONZALEZ, Director,
Citizenship & Immigration Services;

ROBERT S. MUELLER III, Director,
Federal Bureau of Investigation;

MICHAEL B. MUKASEY, Attorney General
the United States,

Respondents.

No. _____

Alien No. A 71-680-829

PETITION FOR DE NOVO REVIEW OF
PETITIONER'S APPLICATION FOR
NATURALIZATION PURSUANT TO
8 U.S.C. § 1447(b) AND TO
COMPEL AGENCY ACTION UNDER
28 U.S.C. § 1361 AND 5 U.S.C.
§ 706(1)

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PRELIMINARY STATEMENT

1
2 1. Petitioner, Jawad Kadhim Al Gizawi ("Mr. Al Gizawi"), hereby
3 petitions the Court to conduct a *de novo* review of his application
4 for naturalization, pursuant to 8 U.S.C. § 1447(b). Petitioner
5 requests that the Court grant his application, or remand the matter
6 with instructions to Citizenship and Immigration Services to
7 immediately adjudicate Petitioner's naturalization application.
8

JURISDICTION

9
10 2. This Court has subject matter jurisdiction over Mr. Al
11 Gizawi's request for a *de novo* review of his Naturalization
12 Application, under 8 U.S.C. § 1447(b) (district court has
13 exclusive jurisdiction over naturalization applications which
14 the Department of Homeland Security has failed to adjudicate
15 within 120 days of conducting a naturalization examination).
16 See also *U.S. v. Hovsepien*, 359 F.3d 1144, 1159-63 (9th Cir.
17 2004) (en banc) (holding that under 8 U.S.C. § 1447(b), the
18 District Court has "exclusive jurisdiction over . . .
19 naturalization applications" where such applications have been
20 pending for over 120 days after the applicant's examination).
21 This Court also has subject matter jurisdiction of this action
22 under 28 U.S.C. § 1331 (federal question jurisdiction) because
23 Petitioner's claims arise under the laws of the United States,
24 specifically 8 U.S.C. § 1447 and applicable regulations arising
25 thereunder. Additionally, this Court may grant injunctive,
26
27
28

1 declaratory, and/or mandamus relief in this action under 5
2 U.S.C. § 701 et seq. (Administrative Procedures Act), 28 U.S.C.
3 §1361 (Mandamus Act), 28 U.S.C. §1651 (All Writs Act), and under
4 28 U.S.C. § 2201 (Declaratory Judgment Act).

5 VENUE

6
7 3. Venue is proper in this Court pursuant to 28 U.S.C. §
8 1391(e) (action against officers of the United States may be
9 brought in any district where "a substantial part of the events
10 or omissions giving rise to the claim occurred" or where "the
11 plaintiff resides") and 8 U.S.C. § 1447(b) (action shall be
12 brought where naturalization applicant resides). A substantial
13 part of the events and omissions giving rise to this Petition
14 occurred in San Francisco and San Jose, California.
15 Additionally, Mr. Al Gizawi resides in San Ramon, California,
16 which is also within the Northern District of California.

17 PARTIES

18
19
20 4. Petitioner, Mr. Al Gizawi, is a 57-year old native and
21 citizen of Iraq, who has been a lawful permanent resident of the
22 United States since September 26, 1995. Exhibit A (*Permanent*
23 *Residence Card*). Mr. Al Gizawi entered the United States as a
24 refugee, having survived severe torture in Iraq. He is
25 currently disabled and receives SSI. Exhibit B (*Medical*
26 *Certification for Disability Exception to Naturalization*
27 *Requirements*). In 2001, Mr. Al Gizawi applied for
28

1 naturalization with Citizenship and Immigration Services
2 ("CIS"). He was interviewed with regards to his application on
3 February 22, 2002, and again at an appeal interview on January
4 6, 2003. Exhibit D (*Appeal Interview Notice*). To date, over
5 five years later, no decision has been made on Mr. Al Gizawi's
6 application.
7

8 5. Respondent Michael Chertoff is sued in his official
9 capacity as the Secretary of the United States Department of
10 Homeland Security ("DHS"). Secretary Chertoff is responsible
11 for administration and enforcement of the Immigration and
12 Nationality Act and is further authorized to delegate such
13 powers and authority to subordinate employees of DHS. 8 U.S.C.
14 § 1103.
15

16 6. Respondent Rosemary Melville is the District Director of
17 the San Francisco District Office for CIS, and is sued in her
18 official capacity. As District Director, Ms. Melville is
19 delegated authority to control all activities conducted within
20 the San Francisco CIS District, to supervise all CIS personnel
21 within the District, and to grant or deny any application or
22 petition pending before the San Francisco District Office. 8
23 C.F.R. § 103.1(g)(2)(ii).
24

25 7. Respondent Emilio Gonzalez is the Director of CIS and is
26 sued in his official capacity. Mr. Gonzalez is responsible for
27 processing and determining applications for naturalization in
28

1 accordance with the laws and lawfully promulgated regulations of
2 the United States.

3 8. Respondent Robert Mueller, III, is the Director of the
4 Federal Bureau of Investigation ("FBI") and is sued in his
5 official capacity, as the person charged with the administration
6 of the FBI and with providing criminal background information,
7 if any, relating to naturalization applicants, pursuant to 8
8 C.F.R. § 335.2(b).

10 9. Respondent Michael Mukasey is sued in his official
11 capacity as the Attorney General of the United States Department
12 of Justice, to the extent that he is charged with the
13 administration of the Department of Justice, which includes the
14 FBI, and has responsibility for providing access to criminal
15 history information pursuant to 8 U.S.C. §§ 1105(b); 1103(g).

17 FACTS

18 **A. The Naturalization Process**

19 10. The Immigration and Nationality Act provides that an
20 individual who has been a lawful permanent resident of the
21 United States for at least 5 years, may apply for citizenship
22 through a process known as naturalization. 8 U.S.C. § 1427.
23 Absent certain specific exceptions, an individual who has been a
24 lawful permanent resident for the requisite number of years will
25 qualify for naturalization if he can prove: a sufficient period
26 of physical presence in the United States, good moral character
27
28

1 for 5 years, an understanding of the English language, knowledge
2 and understanding of the fundamentals of U.S. history, and a
3 knowledge and understanding of the principles and form of
4 government of the United States. 8 U.S.C. §§ 1423, 1427(a).

5 Persons seeking naturalization must submit an application (Form
6 N-400) to CIS, the agency responsible for adjudicating
7 naturalization applications. 8 U.S.C. § 1445; 8 C.F.R. §§
8 100.2, 334.2.

9
10 11. Once an application is submitted, CIS conducts an
11 investigation of the application. 8 U.S.C. § 1446(a); 8 C.F.R.
12 § 335.1. Under CIS regulations, the investigation includes a
13 criminal background check performed by the FBI. 8 C.F.R. §
14 335.2(b). After the criminal background check is completed, CIS
15 schedules a naturalization examination, at which the applicant
16 meets with a CIS officer, who is authorized to examine the
17 applicant. 8 U.S.C. § 1446. After the examination, the CIS
18 officer determines whether to grant or deny the application, 8
19 U.S.C. § 1446(d), and must do so within 120 days after the date
20 of the examination. 8 U.S.C. § 1447; 8 C.F.R. § 335.3. The
21 decision whether to grant or deny an application is not
22 discretionary. 8 C.F.R. § 335.3(a). Rather, if an applicant
23 meets all statutory requirements for naturalization, the CIS
24 officer must grant the application. *Id.*; See also *Tutun v.*
25 *United States*, 270 U.S. 568, 578 (1926).
26
27
28

12. If CIS fails to adjudicate a naturalization application within 120 days of the examination, the applicant "may apply to the United States district court for the district in which the applicant resides for a hearing on the matter." 8 U.S.C. § 1447(b). Once such a petition is filed with the district court, it gains exclusive jurisdiction over the application, *Hovsepian*, 359 F.3d 1144, and the court may either determine the matter *de novo*, or remand the matter to CIS with appropriate instructions. 8 U.S.C. § 1447(b).

B. Mr. Al Gizawi's Application for Naturalization

13. Mr. Al Gizawi is a 57-year old citizen of Iraq, who has been a lawful permanent resident of the United States for over twelve years. Exhibit A (*Lawful Permanent Residence Card*). Mr. Al Gizawi entered the United States as a refugee, having survived severe torture in Iraq. He is currently disabled and receives SSI. Exhibit B (*Medical Certification for Disability Exception to Naturalization Requirements*).

14. Mr. Al Gizawi applied for naturalization under 8 U.S.C. § 1445 in 2001. At the time Mr. Al Gizawi applied for naturalization, he was statutorily eligible to naturalize, since he had been a lawful permanent resident for at least 5 years; he had been physically present in the United States for at least half of that time; and he had been a person of good moral character. 8 U.S.C. §§ 1427(a).

1 15. Mr. Al Gizawi was interviewed with regards to his
2 application on February 22, 2002, and CIS requested that he
3 supply additional police clearances. Because Mr. Al Gizawi had
4 been unable to gather the additional clearances in a timely
5 manner, his application was denied. Exhibit C (October 25, 2002
6 Denial). Mr. Al Gizawi appealed the denial, and was granted an
7 appeal interview on January 6, 2003, at which time Mr. Al Gizawi
8 submitted all requested clearances. Exhibit D (*Appeal Interview*
9 *Notice*); Exhibit E (*Police Clearances*).

11 16. Almost a year later, Mr. Al Gizawi, having yet to
12 receive a decision on his case, contacted CIS through an
13 immigration counselor at Catholic Charities of San Jose.
14 Exhibit F (*December 22, 2004 Inquiry*). Seven months later, Mr.
15 Al Gizawi was sent a new fingerprint appointment notice, and he
16 attended that appointment on August 26, 2005. Exhibit G (*June*
17 *27, 2005 Fingerprint Notice*). In July 2005, CIS informed Mr. Al
18 Gizawi that " a decision on your application cannot be made
19 until all required security checks are completed." Exhibit H
20 (*July 12, 2005 CIS Inquiry Response*).

23 17. Another year later, still with no decision on his
24 case, Mr. Al Gizawi sought the assistance of counsel to inquire
25 about the status of his case. Exhibit I (*April 27, 2006, May 4,*
26 *2006, and June 6, 2006 Inquiries*). Apparently, Mr. Al Gizawi's
27 application had been sent in error to the National Records
28

1 Center, and was retrieved by the San Jose Office of CIS. *Id.*
2 Mr. Al Gizawi then received an additional fingerprint
3 appointment on October 27, 2006, and he was then fingerprinted a
4 third time for his citizenship application. Exhibit J (*October*
5 *27, 2006 Fingerprint Notice*).

6
7 18. Following his third fingerprinting, Mr. Al Gizawi's
8 counsel made several phone inquiries, a new fax inquiry on
9 November 11, 1007, and then followed up with an additional
10 written inquiry on December 4, 2007, indicating that the case
11 has been waiting a security check clearance for over four years,
12 and that Mr. Al Gizawi would seek a writ of mandamus if no
13 decision could be made on his case. Exhibit K (*November 7, 2007*
14 *and December 4, 2007 Inquiries*).

15
16 19. In the meantime, Mr. Al Gizawi independently obtained
17 an FBI background check, which indicates that he has no arrest
18 record as of January 16, 2008. Exhibit L (*FBI Criminal Record*
19 *Check*).

20
21 20. To date, over five years after his naturalization
22 examination, Mr. Al Gizawi is still awaiting a decision on his
23 application for naturalization.

24 CAUSES OF ACTION

25 FIRST CAUSE OF ACTION 26 **(FAILURE TO RENDER DECISION ON NATURALIZATION APPLICATION** 27 **WITHIN 120 DAYS OF EXAMINATION)**

28 21. The allegations contained in paragraphs 1 through 19

1 are repeated and incorporated herein.

2 22. DHS, CIS, and SFDO have failed to adjudicate Mr. Al
3 Gizawi's application for naturalization within 120 days of his
4 examination. As the Ninth Circuit articulated in *Hoveseanian*:
5

6 8 U.S.C. § 1447(b) requires the INS to make a decision
7 regarding a naturalization application within 120 days
8 of the [DHS's] initial interview of the applicant.
9 Further, § 1447(b) specifies a consequence for failure
10 to meet this deadline, namely, that the district court
11 gains jurisdiction over the matter (upon the
12 applicant's request) until the district court decides
13 the case or exercises its discretion to remand the
14 matter to [DHS].

15 359 F.3d at 1161.

16 23. Because Mr. Al Gizawi has demonstrated his statutory
17 eligibility for naturalization pursuant to 8 U.S.C. §§ 1423 and
18 1427(a), this Court should grant his application for
19 naturalization, or remand the matter to CIS for prompt
20 adjudication of his application.

21 **SECOND CAUSE OF ACTION**
22 **(MANDAMUS)**

23 24. The allegations contained in paragraphs 1 through 19
24 are repeated and incorporated herein.

25 25. Mr. Al Gizawi's naturalization application has been
26 delayed for the last two-and-a-half years, apparently due to the
27 FBI's failure to timely perform Mr. Al Gizawi's criminal
28 background checks.

1 26. Pursuant to 28 U.S.C. § 1361, this Court has
2 jurisdiction to compel Respondent Robert Mueller, III, to
3 complete necessary background checks and provide the results of
4 those checks to this Court and to CIS. Accordingly, this Court
5 should compel Respondent Mueller to complete and release the
6 results of Mr. Al Gizawi's criminal background checks to this
7 Court and to CIS, so that Mr. Al Gizawi's application for
8 naturalization may be immediately adjudicated.
9

10
11
12 **THIRD CAUSE OF ACTION**
 (ADMINISTRATIVE PROCEDURE ACT)

13 27. The allegations contained in paragraphs 1 through 19
14 are repeated and incorporated herein.
15

16 28. Mr. Al Gizawi is aggrieved by agency action under the
17 Administrative Procedure Act, 5 U.S.C. §§ 701, et seq.
18 Respondent Mueller, failing to complete and provide the results
19 of the criminal background checks to CIS, and CIS, by failing to
20 timely adjudicate Mr. Al Gizawi's naturalization application,
21 have "unlawfully withheld or unreasonable delayed" agency action
22 in violation of 5 U.S.C. § 706(1). Accordingly, this Court
23 should compel Respondent Mueller to complete and release the
24 results of Mr. Al Gizawi's criminal background checks to this
25 Court and to CIS, so that Mr. Al Gizawi's application for
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27
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1 naturalization may be immediately adjudicated either by this
2 Court or by CIS.

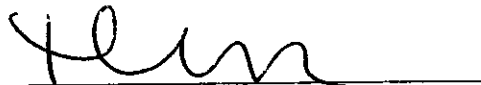
3 **PRAYER FOR RELIEF**

4 WHEREFORE, Petitioner prays that this Court grant the
5 following relief:

- 6 (1) Assume jurisdiction over the matter;
- 7 (2) Compel the completion and immediate release of
8 Petitioner's criminal background check results;
- 9 (3) Conduct a *de novo* review of Petitioner's application
10 for naturalization and grant him naturalization, or remand the
11 matter to CIS and compel the agency to immediately adjudicate
12 Petitioner's naturalization application;
- 13 (4) Award Petitioner his costs and fees pursuant to the
14 Equal Access to Justice Act (EAJA), 28 U.S.C. § 2412; and
- 15 (5) Grant such further relief as the Court deems just and
16 proper.
17
18
19

20
21 Dated: April 10, 2008

Respectfully Submitted,

22
23 

24 Mary Beth Kaufman
25 Law Offices of Stanton and Kaufman
26 Attorneys for Petitioner
27
28





U.S. Department of Justice
Immigration and Naturalization Service

Medical Certification for Disability Exceptions

Part I. THIS SECTION TO BE COMPLETED BY THE APPLICANT (Please print or type information)

Last Name AL-GIZAWI	First Name Jawad	Middle Name	Social Security Number 940-48-6198
Address To Cameron Way		Alien Number 071680829	
City San Francisco		State CA	Zip Code 94124
Telephone Number (415) 822.5495	Date of Birth 07/01/1950	Sex M	

I, Jawad AL-GIZAWI authorize Thomas Bates Huffaker, M.D.
 (Applicant's Name) (Licensed medical doctor or licensed clinical psychologist)

to release all relevant physical and mental health information related to my medical status to the INS for the purpose of applying for an exception from the English language and U.S. civics testing requirements for naturalization. I certify under penalty of perjury pursuant to Title 28 U.S.C. Section 1746, that the information on the form and any evidence submitted with it is all true and correct. I am aware that the knowing placement of false information on the Form N-648 and related documents may also subject me to civil penalties under 8 U.S.C. Section 1324c.

Signature [Signature] Date _____

Part II. THIS SECTION TO BE COMPLETED BY A LICENSED MEDICAL DOCTOR OR LICENSED CLINICAL PSYCHOLOGIST (see instructions)

The individual named above is applying for an exception from the English language and U.S. history and civics tests required of applicants for naturalization. The Immigration and Naturalization Service's regulations require that applicants for an exception based on disability submit this certification form, completed by a licensed medical doctor or licensed clinical psychologist, along with a completed application for naturalization (Form N-400).

Please answer the following questions as clearly and completely as possible, using common terminology and complete words and phrases.

1. Date of your most recent examination of the applicant. 2.13 19 01

2. Is this your first examination of the individual? Yes _____ No ✓

If yes, who is the regular attending physician? _____

3. Based on your examination, describe any findings of a physical or mental disability or impairment which, in your professional medical opinion, would prevent this applicant from demonstrating knowledge of basic English language and/or U.S. history and civics. Describe in detail. If applicant has a mental disability or impairment, please provide DSM diagnosis.

Mr. Al-Gizawi suffers from severe Posttraumatic Stress Disorder secondary to Torture and imprisonment in Iraq. His symptoms include depressed mood, irritability, anhedonia, nightmares, recurrent and intrusive recollections of those events, efforts to avoid those recollections, and a restricted range of emotional responsiveness. His symptoms also warrant a diagnosis of recurrent Major Depression. (over)

4. Did the applicant's disability or impairment result from the illegal use of drugs? If the applicant is developmentally disabled, did this condition first manifest itself before age 22? Please explain.

No to both questions

5. What is the duration of the applicant's disability or impairment? Is it temporary (less than 12 months) or permanent? Explain.

He has been treated with an antidepressant for nearly four years with only very slight improvement.

6. Please provide your medical specialty. If you are not specialized, provide your medical experience and other qualifications that permit you to make this assessment.

I am a board certified psychiatrist

I certify under penalty of perjury under the laws of the United States of America, that the information on the form and any evidence submitted with it is all true and correct. I agree to release this applicant's relevant medical records upon request from the U.S. Immigration and Naturalization Service. I am aware that the knowing placement of false information on the Form N-648 and related documents may also subject me to civil penalties under 8 U.S.C. Section 1324c.

Signature Thomas M.D. Date 2.13.01

Please Type or Print

Last Name Huffaker	First Name Thomas	Middle Name Bates
Business Address 1375 Sutter St. Ste 304	City, State, Zip Code San Francisco CA 94109	Telephone 415.563.5050
License Number G41747	Licensing State California	

3. (cont.)

Most importantly, he is incapable of the intellectual effort required to learn enough English to be able to pass the American and Civics tests required for naturalization.

His emotional distress interferes with his capacity to attend, concentrate, and remember. He was unable to remember 2 of 4 unrelated items after two minutes. He could not perform Serial 7 Subtractions





Direct all responses by mail to the office listed below:
IMMIGRATION AND NATURALIZATION SERVICE
630 Sansome St # Room 237
San Francisco CA 94111

U.S. Department of Justice
Immigration and Naturalization Service

Jawad Kadhim Al Gizawi
7215 Coronado Dr
San Jose CA 95129

Refer to this file: WSC*000599434
Alien Number: A 071 680 829
Date: OCT 25 2002

DECISION

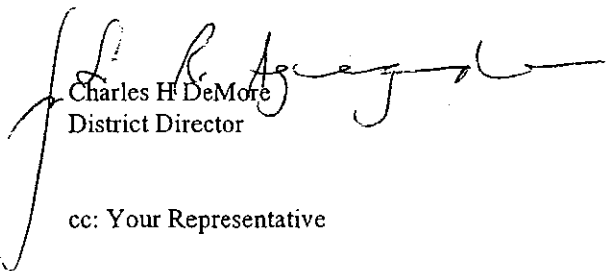
On February 22, 2002, you appeared for an examination of your application for naturalization, which was filed in accordance with Section 316(A) of the Immigration and Nationality Act.

Pursuant to the investigation and examination of your application it is determined that you are ineligible for naturalization for the following reason(s):

See Attachment(s)

If you desire to request a review hearing on this decision pursuant to Section 336(a) of the Act, **you must file a request for a hearing within 30 Days of the date of this notice.** If no request for hearing is filed within the time allowed, this decision is final. A request for hearing may be made to the District Director, with the Immigration and Naturalization office which made the decision, on Form N-336, **Request for Hearing on a Decision in Naturalization Proceedings under Section 336 of the Act, together with a fee of \$195.** A brief or other written statement in support of your request may be submitted with the Request for Hearing.

Sincerely,


Charles H. DeMore
District Director

cc: Your Representative



Form N-335

Attachment(s) to Form N-335

Applicant: Jawad Kadhim Al Gizawi
Application for Naturalization, Form N-400
Alien Number: A071680829
Application ID: WSC*000599434

Subsequent to your interviews, you were given Form N-14, requesting you to submit police clearances from all cities you have resided in from 1995 to present. This documentation was to be submitted by March 24, 2002. As of this date, said documentation has not been submitted.

Section 335(e) of the Act provides in pertinent part that " ... [in] cases where the applicant fails to prosecute his application, the application shall be decided upon its merits unless the Attorney General dismisses it for lack of prosecution." You have failed to submit documentation necessary for the Service to make a complete and accurate decision on your application for naturalization. Therefore, you have failed to establish eligibility for naturalization and your application must be DENIED.





U.S. Department of Justice

Immigration and Naturalization Service
 Appraisers Building
 630 Sansome Street, Room 237
 San Francisco, California 94111-2280

JAWAD K AL-GIZAWI
 7215 CORONADO DRIVE
 SAN JOSE, CA 95129

Refer to File Number:

A 71680829/N336

December 6, 2002

cc:

Please come to the office shown above at the time and place indicated in connection with an official matter.

OFFICE LOCATION	630 Sansome Street, Room #406 4 th Floor San Francisco, CA 94111
DATE AND HOUR	MONDAY, JANUARY 6, 2003 at 8:00 AM
ASK FOR	Appeal Hearing Officer MANAOIS
REASON FOR APPOINTMENT	Appeal Hearing on the denial of your application for naturalization.
BRING WITH YOU	YOUR ALIEN REGISTRATION CARD, CALIFORNIA DRIVER'S LICENSE/ID AND ALL PASSPORTS. ANY AND ALL DOCUMENTS (IF APPLICABLE) WHICH MAY BE USED TO OVERCOME YOUR ORIGINAL DENIAL DECISION.

IT IS IMPORTANT THAT YOU KEEP THIS APPOINTMENT AND BRING THIS LETTER WITH YOU.
 If you are unable to do so, state your reason, sign below and return this letter to this office at once; otherwise, no further action
 will be taken on your application. Do NOT bring children.

**Failure to appear or to bring requested items might result in the denial of your application for lack of
 prosecution.**

I am unable to keep the appointment because:	
SIGNATURE	DATE

Very truly yours,

Charles H. DeMore
 District Director





POLICE DEPARTMENT
CITY AND COUNTY OF SAN FRANCISCO
THOMAS J. CAHILL HALL OF JUSTICE
850 BRYANT STREET
SAN FRANCISCO, CALIFORNIA 94103-4603

PRENTICE E. SANDERS
CHIEF OF POLICE

RECORD CLEARANCE

Date: November 20, 2002

TO WHOM IT MAY CONCERN:

This letter is a result of a search of the San Francisco Police Department records. The search for:

NAME Jawad K Algizawi, DATE OF BIRTH 07-01-50

did not disclose any criminal record and: SS# 640-48-6198

XXX is not verified by fingerprints or actual birth records.

 is verified by fingerprints.

This letter does not preclude the possibility of arrests or wants outside the jurisdiction of the City and County of San Francisco.

The San Francisco Police Department cannot give or obtain a statewide police clearance. If such clearance is needed, the State will charge you a fee for this service. To obtain this clearance, you must contact the Department of Justice, and you must submit a set of legible fingerprints taken by a private fingerprint agency. Forward the fingerprints to:

State of California Department of Justice
Bureau of Criminal Information, Applicant Control Unit
P.O. Box 903417
Sacramento, CA 94203-4170
Telephone: 1-916-227-3832

Sincerely yours,

FOR: Custodian of Records
Identification/Record Section
Forensic Services Division



CITY OF HOUSTON

Houston Police Department

Lee P. Brown, Mayor

1200 Travis Houston, Texas 77002-6000 713/247-1000

CITY COUNCIL MEMBERS: Bruce Tatro Carol M. Galloway Mark Goldberg Ada Edwards Addie Wiseman Mark A. Ellis Bert Keller Gabriel Vasquez
Carol Alvarado Annise D. Parker Gordon Quan Shelley Sekula-Gibbs, M.D. Michael Berry Carroll G. Robinson CITY CONTROLLER: Sylvia R. Garcia

C. O. "Brad" Bradford
Chief of Police



November 27, 2002

TO WHOM IT MAY CONCERN:

The bearer of this letter, Mr. Jawad Al-Gizawi, aka: Jawad Kadem Algizawi, 7215 Coronado Drive, San Jose, California, has applied to this Department for a police clearance letter for permanent residence status. This is for immigration purposes to immigrate from Iraq to the United States.

Please be advised that we have made a careful search of the records on file in this Department, by name only, and are unable to locate any record of this applicant having been arrested by any member of this Department on any charge of a criminal nature or subversive activity against the United States Government. **This letter can pertain only to violations which might have been handled by this Department.**

The aforementioned individual states they have/had resided in the Houston area from September, 1995 through May, 1996.

Sincerely,

A handwritten signature in black ink, appearing to read "A. Wade Runnels".

A. Wade Runnels, Administrator
Identification Division

By:

A handwritten signature in black ink, appearing to read "Tony J. Hamilton".

Identification Division, Supervisor
Houston Police Department
Houston, Texas

AWR:cb



F



Becky Bogyo

To: SFR, NATZ [NATZ.Sfr@dhs.gov]
Subject: AL-GIZAWI, Jawad A071680829

RE: Jawad K. Al-Gizawi
A# 071680829
Receipt # WSC*000599434
Date of Birth: 07/01/1950

Address: 7215 Coronado Drive
San Jose, CA 95129
Telephone 408-366-1994

Dear Officer:

The above applicant had his naturalization interview on February 22, 2002 but never received the form N-14 request for copies of police clearances. Subsequently, his application was denied. In November 2002, he appealed that decision on form N-336 and paid the required fee of \$195. Along with his appeal, he included copies of police clearances of all cities in which he has resided since 1995. As of today, December 22, 2004, Mr. Al-Gizawi has not received any information regarding the status of his case.

Please inform us of the status of this case at your earliest convenience. The applicant has now been waiting more than two years since he appealed the decision of BCIS and has yet to hear if his case has been approved and when he will be scheduled for an oath ceremony. Thank you for your prompt attention to this matter.

Sincerely,

Rebecca A. Bogyo
Immigration Counselor
Catholic Charities CYO



U.S. Department of Homeland Security
San Francisco, CA 94111U.S. Citizenship
and Immigration
ServicesRECEIVED
NO SITE CODE
BIOMETRICS QA REVIEW BY:
ON
FINGERPRINTS QA REVIEW BY:JAWAD AL GIZAWI
7215 CORONADO DRIVE
SAN JOSE CA 95129

AUG 26 2005 File No. A71 680 829

App Id: WSC*000599434

Date: 06/27/2005

Officer: cw

cc: *Miguel Garcia Vidal, Rep.*

The fingerprints that you submitted have expired. To continue processing your application, you must go to a CIS Application Support Center to have your fingerprints taken. Please ignore this letter if you have appeared for fingerprints within the last 90 days, or if you receive a duplicate notice and your fingerprints were not unclassifiable.

If you do not have them taken within an 87-day period, your naturalization application may be considered abandoned and denied pursuant to 8 CFR § 103.2(b)(13). Please present yourself with this letter to one of the sites below for Re- fingerprinting:

<input type="checkbox"/> SAN FRANCISCO 250 Broadway (At Sansome St) HOURS: Tuesday through Saturday, 8am to 3:30 pm	<input type="checkbox"/> OAKLAND 2040 Telegraph Avenue HOURS: Tuesday through Saturday, 8am to 3:30 pm
<input type="checkbox"/> SANTA ROSA 1401 Guerneville Rd, Suite 100 HOURS: Tuesday through Saturday, 8am to 3:30 pm	<input type="checkbox"/> SAN JOSE 122 Charcot Avenue HOURS: Tuesday through Saturday, 8am to 3:30 pm
<input type="checkbox"/> MODESTO 901 N Carpenter Ave #14 Crossroads Shopping Center HOURS: Tuesday through Saturday, 9am to 3:30 pm	<input type="checkbox"/> SALINAS 1954 N Main Street HOURS: Tuesday through Saturday, 9am to 3:30 pm
<input type="checkbox"/> SACRAMENTO 731 K Street, Room 100 HOURS: Tuesday through Saturday, 8am to 3:30 pm	<input type="checkbox"/> FRESNO 4893 E. Kings Canyon HOURS: Tuesday through Saturday, 8am to 3:30 pm
<input type="checkbox"/> RED BLUFF (Tehama County Sheriff's Office) 502 Oak Street HOURS: Tuesday through Thursday, 9am to 1:00 pm 2pm to 4:00 pm	<input type="checkbox"/> ARCATA (Arcata Police Department) 736 "F" Street HOURS: Please call (707) 822-2428 to schedule appointment

Photo Identification. Naturalization applicants should bring their Alien Registration Card. All applicants must bring a passport, driver's license, national ID, military ID, or State-issued photo ID. If you appear without proper identification, you will not be fingerprinted.

Please take note that the staff at the Application Support Center will not be able to answer any questions about the status of your application.



U.S. Department of Homeland Security
San Francisco, CA 94111



U.S. Citizenship
and Immigration
Services

JAWAD AL GIZAWI
7215 CORONADO DRIVE
SAN JOSE CA 95129

File No. A71 680 829
App Id: WSC*000599434
Date: 07/12/2005 cw
Officer:

Re: Miguel Garcia Vidal, Accredited Representative

Re: Pending N-400 for Background Check

This is in response to your recent inquiry. A review of your application shows that your Form N-400, Application for Naturalization, is still pending for the completion of all necessary background checks. Unfortunately a decision on your application cannot be made until all required security checks have been completed. All cases pending for security checks are regularly reviewed for any new cases that have cleared. We apologize for the delay and request your cooperation and patience in waiting for these important checks to be completed.

Thank you for your cooperation and patience.

U.S. Citizenship and Immigration Services
630 Sansome Street
San Francisco CA 94111

Sincerely,

A handwritten signature in black ink that reads "David N. Still".

David N Still

District Director



JILL STANTON

Attorney at Law

April 27, 2006

Section Chief Robin Barrett
USCIS - Citizenship Branch
630 Sansome
San Francisco, CA 94111

RE: N-400 application of Jawad K. Al-Gizawi - A71-680-829
Pending since 2003!

Dear Officer Barrett:

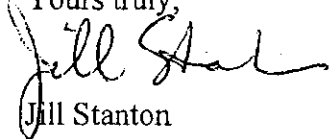
Please find my G-28 attached. Mr. Al-Gizawi was previously assisted by Catholic Charities. He made his N-400 application in 2002 which was initially denied because of confusion regarding an N-14. The denial was appealed, and the case was reopened in 2003.

He has been apparently waiting for a security check clearance since this time. He was asked to report at the ASC last year for fingerprinting again, and reported on 8/26/05. Nothing further has been received since then.

Would you please confirm that the only reason this case has not yet been adjudicated is because Mr. Al-Gizawi is still waiting for a security clearance? And if this is the case, please indicate whether any action has yet been taken, or will be taken by your office to expedite this clearance now that **three years have passed** since the clearance was apparently requested by the USCIS.

Please note that Mr. Al-Gizawi will be forced to seek declaratory relief through the Federal District Court if his security clearance remains at issue. Thank you for your consideration.

Yours truly,



Jill Stanton

LAW OFFICES OF JILL STANTON

**400 Montgomery Street, Ste. 810,
San Francisco, CA 94104
E-MAIL: lawstan@pacbell.net**

Phone: (415) 392-6161 • FAX: (415)392-8208

May 4, 2006

FAX TRANSMITTAL FORM

**FAXED TO: Naturalization Supervisor Al Susoeff, USCIS
FAX NUMBER: 408 918-3801**

**FAXED FROM: (415) 392-8208 PHONE NUMBER: (415) 392-6161
FROM: Jill Stanton**

NO. OF PAGES INCLUDING COVER PAGE: 3

MESSAGE: RE: N-400 of Jawad K. Al-Gizawi - A71-680-829

Thank you for speaking with me today regarding Mr. Al-Gizawi which you have now requested back from the NRC. As we discussed, I am forwarding a copy of the letter and G-28 that I had previously sent to Naturalization Section Chief Robin Barrett in San Francisco.

I really appreciate your continued assistance!

This facsimile transmission is confidential & is a private communication intended for the above-named recipient only. Any viewing, copying, or retaining of this transmission by persons other than the intended recipient is strictly forbidden. If this transmission is received at the wrong fax number, please call sender at the above number immediately--collect if necessary. Thank you.

Subject: Naturalization case - A71-680-829

From: Jill Stanton <lawstan@pacbell.net>

Date: Tue, 06 Jun 2006 10:14:41 -0700

To: askcis.sanjose@dhs.gov

To: Supervisor Al Susoeff

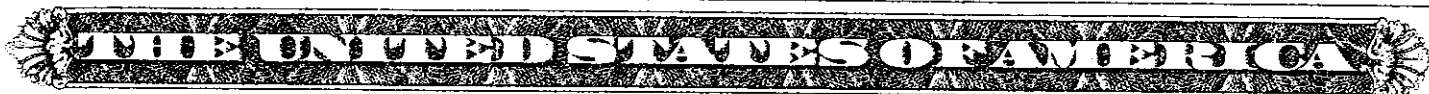
Re: Natz case of Mr. Jawad Al-Gizawi

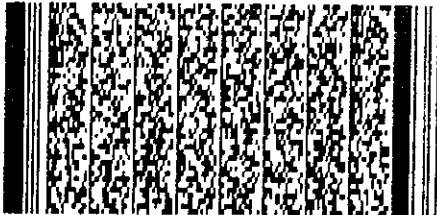

Thank you for talking with me last month and accepted my FAX. This case had mysteriously been sent, unadjudicated, to the NRC and you were retrieving it. Has it been received? Has the security clearance been completed? Can it be granted at this time?

Thanks for your continuing efforts. In addition to my office number on my G-28, my cell phone # is [REDACTED]

Jill Stanton





Fingerprint Notification			NOTICE DATE October 17, 2006
CASE TYPE N400 Application For Naturalization			USCIS # A 071 680 829
APPLICATION NUMBER WSC*000599434	RECEIVED DATE March 12, 2001	PRIORITY DATE March 12, 2001	PAGE 1 of 1
<div style="display: flex; justify-content: space-between;"> <div style="width: 60%;"> <p>APPLICANT NAME AND MAILING ADDRESS</p> <p>JAWAD KADHIM AL GIZAWI c/o JILL B STANTON ATTORNEY AT LAW # 810 400 MONTGOMERY ST SAN FRANCISCO CA 94104 llllllllllllllll</p> </div> <div style="width: 35%; text-align: center;">  </div> </div> <p>Your fingerprint card (FD-258) was recently rejected by the Federal Bureau of Investigations (FBI) because it was "Unclassifiable" (could not be read or processed). In order for the USCIS to continue processing your application, it will be necessary to have your fingerprints re-taken. This will be completed at no additional expense to you. PLEASE APPEAR AT THE BELOW APPLICATION SUPPORT CENTER AT THE DATE AND TIME SPECIFIED. If you are unable to do so, complete the bottom of this notice and return the entire original notice to the address below.</p>			
APPLICATION SUPPORT CENTER CIS SAN JOSE 122 CHARCOT AVE. SAN JOSE CA 95131		DATE AND TIME OF APPOINTMENT 10/27/2006 01:00 PM	
<p>WHEN YOU GO TO THE APPLICATION SUPPORT CENTER TO HAVE YOUR FINGERPRINTS TAKEN, YOU MUST BRING:</p> <ol style="list-style-type: none"> 1. THIS APPOINTMENT NOTICE and 2. PHOTO IDENTIFICATION. Naturalization applicants must bring their Alien Registration Card. All other applicants must bring a passport, driver's license, national ID, military ID, or State-issued photo ID. If you appear without proper identification, you will not be fingerprinted. 			
<p>PLEASE DISREGARD THIS NOTICE IF YOUR APPLICATION HAS ALREADY BEEN GRANTED.</p>			
<p>REQUEST FOR RESCHEDULING</p>			
<p>Please reschedule my appointment for the next available: <input type="checkbox"/> Wednesday afternoon <input type="checkbox"/> Saturday afternoon</p> <p>USCIS cannot guarantee the day preferred, but will do so to the extent possible.</p> <p>Upon receipt of your request, you will be provided a new appointment notice. Please mail your request to:</p> <p>CIS SAN JOSE 122 CHARCOT AVE. SAN JOSE CA 95131</p>			
<p>If you have any questions regarding this notice, please call 1-800-375-5283.</p> <p>APPLICATION NUMBER WSC*000599434</p>		<p>REPRESENTATIVE COPY</p> 	
<p>WARNING!</p> <p><i>Due to limited seating availability in our lobby areas, only persons who are necessary to assist with transportation or completing the fingerprint worksheet should accompany you.</i></p>			

K



K

Case 5:08-cv-01915-RMW Document 1 Filed 04/10/2008 Page 78 of 92

LAW OFFICES OF JILL STANTON

Mary Beth Kaufman
Attorney at Law

Jill Stanton
Attorney at Law

Bijan Tabrizi
Office Manager

December 4, 2007

Supervisor Martha Ramirez
Citizenship Branch
San Jose USCIS
1887 Monterey Rd., San Jose, CA 95112

RE: N-400 Application of Jawad Al Gizawi - A71-680-829
WSC*000599434
Yet pending background check?

Dear Supervisor Ramirez:

One month ago, I forwarded a FAX transmittal form to your office asking whether the above-referenced case was still pending for a background (security check). I have not yet received an answer.

Please note that Mr. Al-Gizawi was interviewed in 2002. When he did not receive an N-14 request for copies of police clearances, the N-400 was initially denied by the San Francisco Citizenship Branch, but his case was reopened, apparently in 2003, and has been pending for the only for the security clearance since that time..

The applicant has been awaiting a security check clearance for the past four years! In a letter to Section Chief Robin Barrett dated 4/27/06 (copy attached), by which I submitted my G-28, this long delay was noted, as was Mr. Al-Gizawi's intent to seek declaratory relief in U.S. District Court if the clearance issue was not resolved. Subsequently, the file was retrieved from the National Records Center, where it had been erroneously sent, and, because the applicant had been residing in the jurisdiction of the San Jose District Office (& had properly changed his address by phone & received confirmation of same in 2002), your colleague, Supervisor Susoeff, had it brought to San Jose.

On July 20, 2006, Mr. Susoeff informed me that the case was pending only for the security clearance. However, in subsequent calls to the San Jose Citizenship Branch, some returned, some not, I was informed that the security clearance had not yet been processed.

We must assume that the only continuing reason for the unreasonable delay is the security clearance. Please confirm this once more. Please be further informed that if Mr. Al-Gizawi's security clearance is not expedited, and this issue is not resolved within the next month, Mr. Al-Gizawi will file in U.S. District Court for a Writ of Mandamus.

Thank you for your consideration.

Yours truly,


Jill Stanton

LAW OFFICES OF JILL STANTON

400 Montgomery Street, Ste. 810,
San Francisco, CA 94104
E-MAIL: lawstan@pacbell.net

Phone: (415) 392-6161 • FAX: (415) 392-8208

May 4, 2006

Re-sent 4/7/07

FAX TRANSMITTAL FORM

FAXED TO: Naturalization Supervisor Al Susoeff, USCIS *or Martha Ramirez*
FAX NUMBER: 408 918-3801

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NO. OF PAGES INCLUDING COVER PAGE: 3

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I really appreciate your continued assistance!

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Is this case still pending for a security clearance? It's been pending 4+ years now. Jill Stanton

L



APPLICANT	LEAVE BLANK	TYPE OR PRINT ALL INFORMATION IN BLACK		
		LAST NAME <u>NAM</u>	FIRST NAME <u>A/ Girawi, Javad</u>	MIDDLE NAME <u>K.</u>

FBI LEAVE BLANK

SIGNATURE OF PERSON FINGERPRINTED

1-689* (Rev. 10-1-97)

FEDERAL BUREAU OF INVESTIGATION
Criminal Justice Information Services Division
CLARKSBURG, W.V. 26306

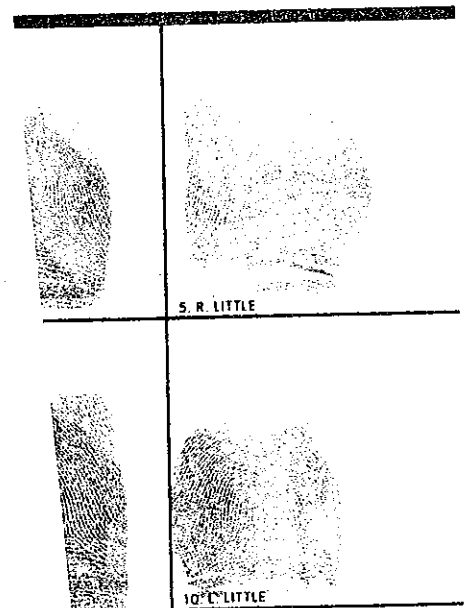
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WGT. <u>163</u>	EYES <u>Br</u>	HAIR <u>B/</u>	PLACE OF BIRTH POB <u>Iraq</u>
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LEAVE BLANK

Please note the stamp on the back of the enclosed
fingerprint card indicating the results of the search of the FBI
Criminal Justice Information Services Division's files.

Enclosure(s)



Identification and Investigative
Services Section

JAN 16 2008 1596

FBI/DOJ

FINGERS TAKEN SIMULTANEOUSLY

APPLICANT

A/ Girawi, Jawad K.

SIGNATURE OF PERSON FINGERPRINTED

Jawad al Girawi

LOCATION FINGERPRINTED

Coronado Drive
Jose, CA 95129

NATURE OF OFFICIAL TAKING FINGERPRINTS

CORNING GOLD PHOTO

501 WASHINGTON STREET

SAN FRANCISCO, CA 941

ADDRESS

/a

ALIASES AKA

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CJIS-WV-DO-REQ
CLARKSBURG, WV

DATE OF BIRTH

Month

07

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ARMED FORCES NO. MNU

CLASS



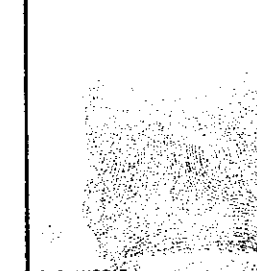
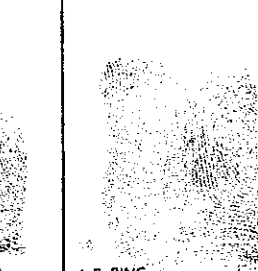



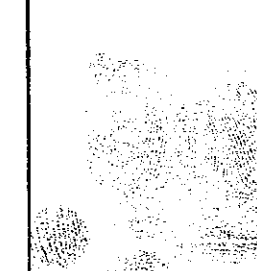

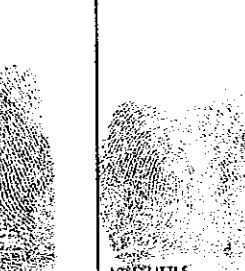
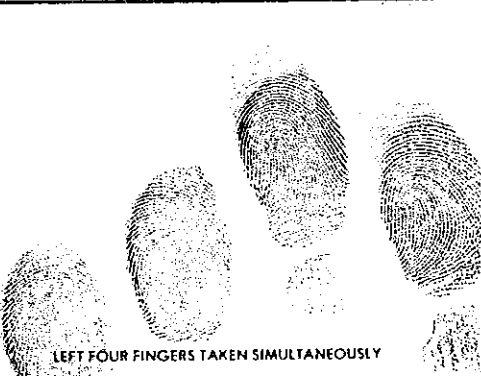
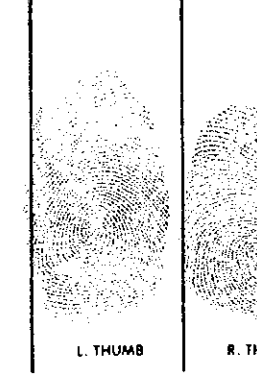
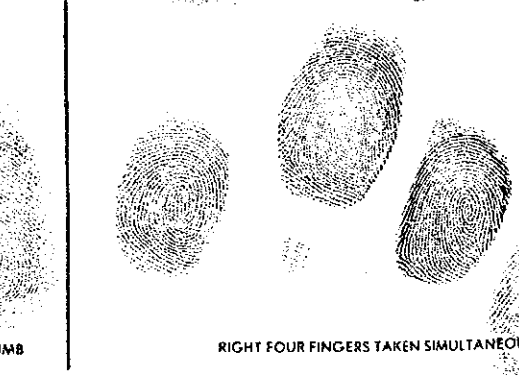
FINGERPRINTED

SOCIAL SECURITY NO. SOC

640-48-698

MISCELLANEOUS NO. MNU

REF.

 1. R. THUMB	 2. R. INDEX	 3. R. MIDDLE	 4. R. RING	 5. R. LITTLE
 6. L. THUMB	 7. L. INDEX	 8. L. MIDDLE	 9. L. RING	 10. L. LITTLE
 LEFT FOUR FINGERS TAKEN SIMULTANEOUSLY		 L. THUMB R. THUMB	 RIGHT FOUR FINGERS TAKEN SIMULTANEOUSLY	

**FEDERAL BUREAU OF INVESTIGATION
UNITED STATES DEPARTMENT OF JUSTICE
WASHINGTON, D.C. 20537**

APPLICANT

TO OBTAIN CLASSIFIABLE FINGERPRINTS:

1. USE BLACK PRINTER'S INK.
2. DISTRIBUTE INK EVENLY ON INKING SLAB.
3. WASH AND DRY FINGERS THOROUGHLY.
4. ROLL FINGERS FROM NAIL TO NAIL, AND AVOID ALLOWING FINGERS TO SLIP.
5. BE SURE IMPRESSIONS ARE RECORDED IN CORRECT ORDER.
6. IF AN AMPUTATION OR DEFORMITY MAKES IT IMPOSSIBLE TO PRINT A FINGER, MAKE A NOTATION TO THAT EFFECT IN THE INDIVIDUAL FINGER BLOCK.
7. IF SOME PHYSICAL CONDITION MAKES IT IMPOSSIBLE TO OBTAIN PERFECT IMPRESSIONS, SUBMIT THE BEST THAT CAN BE OBTAINED WITH A MEMO STAPLED TO THE CARD EXPLAINING THE CIRCUMSTANCES.
8. EXAMINE THE COMPLETED PRINTS TO SEE IF THEY CAN BE CLASSIFIED, BEARING IN MIND THAT MOST FINGERPRINTS FALL INTO THE PATTERNS SHOWN ON THIS CARD (OTHER PATTERNS OCCUR INFREQUENTLY AND ARE NOT SHOWN HERE).

LEAVE THIS SPACE BLANK

THIS CARD FOR USE BY:

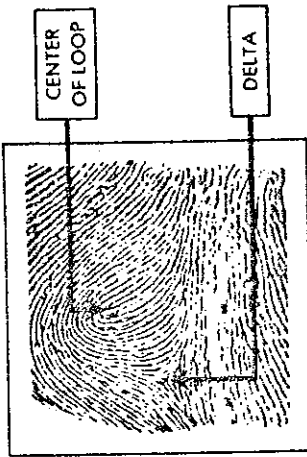
1. LAW ENFORCEMENT AGENCIES IN FINGERPRINTING APPLICANTS FOR LAW ENFORCEMENT POSITIONS.*
2. OFFICIALS OF STATE AND LOCAL GOVERNMENTS FOR PURPOSES OF EMPLOYMENT, LICENSING, AND PERMITS, AS AUTHORIZED BY STATE STATUTES AND APPROVED BY THE ATTORNEY GENERAL OF THE UNITED STATES, LOCAL AND COUNTY ORDINANCES, UNLESS SPECIFICALLY BASED ON APPLICABLE STATE STATUTES DO NOT SATISFY THIS REQUIREMENT.*
3. U.S. GOVERNMENT AGENCIES AND OTHER ENTITIES REQUIRED BY FEDERAL LAW.**
4. OFFICIALS OF FEDERALLY CHARTERED OR INSURED BANKING INSTITUTIONS TO PROMOTE OR MAINTAIN THE SECURITY OF THOSE INSTITUTIONS.

INSTRUCTIONS:

- *1. PRINTS MUST FIRST BE CHECKED THROUGH THE APPROPRIATE STATE IDENTIFICATION BUREAU, AND ONLY THOSE FINGERPRINTS FOR WHICH NO DISQUALIFYING RECORD HAS BEEN FOUND LOCALLY SHOULD BE SUBMITTED FOR FBI SEARCH.
2. PRIVACY ACT OF 1974 (P.L. 93-579) REQUIRES THAT FEDERAL, STATE, OR LOCAL AGENCIES INFORM INDIVIDUALS WHOSE SOCIAL SECURITY NUMBER IS REQUESTED WHETHER SUCH DISCLOSURE IS MANDATORY OR VOLUNTARY, BASIS OF AUTHORITY FOR SUCH SOLICITATION, AND USES WHICH WILL BE MADE OF IT.
- **3. IDENTITY OF PRIVATE CONTRACTORS SHOULD BE SHOWN IN SPACE "EMPLOYER AND ADDRESS". THE CONTRIBUTOR IS THE NAME OF THE AGENCY SUBMITTING THE FINGERPRINT CARD TO THE FBI.
4. FBI NUMBER, IF KNOWN, SHOULD ALWAYS BE FURNISHED IN THE APPROPRIATE SPACE.
5. MISCELLANEOUS NO. RECORD: OTHER ARMED FORCES NO., PASSPORT NO. (PP), ALIEN REGISTRATION NO. (AR), PORT SECURITY CARD NO. (PS), SELECTIVE SERVICE NO. (SS), VETERANS' ADMINISTRATION CLAIM NO. (VA).

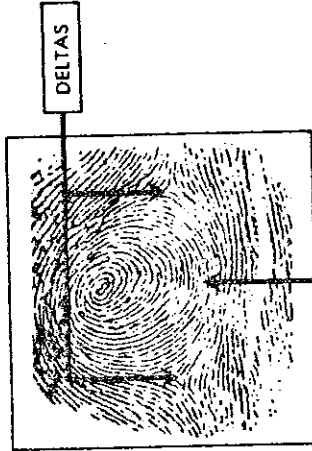
*U.S. GOVERNMENT PRINTING OFFICE: 1986 — 154-978

1. LOOP



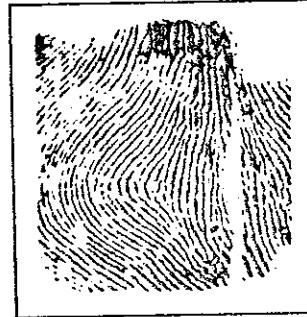
THE LINES BETWEEN CENTER OF LOOP AND DELTA MUST SHOW

2. WHORL



THESE LINES RUNNING BETWEEN DELTAS MUST BE CLEAR

3. ARCH



ARCHES HAVE NO DELTAS

FD-258 (REV. 12-29-82)

NO ARREST RECORD
JAN 16 2008
CJIS DIVISION FBI

JAN 16 2008 1596

